

Town of North Andover
ZONING BOARD OF APPEALS

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Doug Ludgin
Zoning Enforcement Officer
Gerald A. Brown

Approved
Sept
10,
2013

DRAFT MINUTES
Tuesday, August 13th 2013 at 7:30 PM
Town Hall 120 Main Street, North Andover, Massachusetts

Members present: Albert Manzi III Esq., Richard Byers, D. Paul Koch Jr., Esq. and Allan Cuscia
Associate Member: Deney Morganthal and Doug Ludgin
Also in attendance: Zoning Enforcement Officer: Gerald Brown
Excused absence: Ellen McIntyre and Michael Liporto

Manzi called the meeting to order at 7:40

Pledge of Allegiance

Acceptance of Minutes for June 18, 2013

Cuscia made the motion to approve the Minutes

Koch second the motion.

Those voting in favor to approve the minutes were Byers, Koch, Cuscia, Morganthal and Ludgin.
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Committee Report

Committee Report Merrimack Valley Planning Commission Report

Richard Byers stated that they have had the summer off, so he has nothing new to report

Committee Report Housing Partnership Report

Manzi stated that Ellen McIntyre is not here tonight, so we do not have a report, and we will table it till the next meeting.

Continued Public Hearing

Variances R-3, Edward and Tina Collins, 75 Chestnut Street (Map 60.C Lot 28)

Jack Sullivan, the Architect representing Edward and Tina Collins walked up to the podium and stated that he and his clients were in front of the board back in May and were proposing to construct an attached two stall garage and porch. Sullivan brought the Board up to speed on what happened at the last hearing. Sullivan stated as requested from the Board at the last meeting on May 7th they modified their plans and also have acquired specific information that the Board requested from them at the last Meeting.

Sullivan talked of the three variances needed; Petitioner is requesting Variances from Table 2 (Dimensional Requirements) for two front setbacks and one rear setback of the Zoning Bylaws in the

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R-3 Zoning District, to construct a 1 stall garage. Sullivan also spoke of the newly proposed modified roofline.

Sullivan spoke of the changes in the Variances from the last meeting and that they are proposing less from each of the 3 Variances than from the first time they were in front of the Board.

Sullivan stated that the modified plans show a one stall garage and also a change in the roofline, so it would match with the existing roofline.

Sullivan went on to say the hardship that the Collins' have is that it is a very undersized lot and also that it is located on the corner.

Sullivan submitted a photo to the Board to give a better visual of where the proposed garage will be from the pavement line.

The Collins submitted additional information to the Board that was requested of them at the May 7th Meeting. Sullivan went over the changes as well as the additional information to the Board. Sullivan spoke of the traffic/accident report that the Collins' received from the North Andover Police Department, Printed June 3, 2013 and was submitted to the Board. Along with another letter that was from Tim Willet, Operation Manager from the Town of North Andover, dated June 3, 2013 stating that Maplewood Ave is not Town owned.

A letter from an abutter, Judith Brasseur of 5 Longwood Avenue was in support of the Collins proposed project and was dated July 28, 2013.

Also a newly revised Plan of the Land revised on August 1, 2013 was also submitted.

Manzi thought they made substantial changes.

Sullivan wanted to turn it over to the Board if they had any questions.

Morganthal thought it was best that he recused himself from this hearing on 75 Chestnut Street.

Manzi read over the letter of support from the abutter and spoke of the additional letters and additional information submitted to the Board.

Sullivan again stressed the hardship the Collins' have with their lot

Manzi questioned the size of the shed that was on the property. Sullivan stated that it is an 8 X 12 shed

Manzi asked if the Board had any questions, and also if any abutters were here tonight in favor or against this project.

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Frank and Marcia Elander both of 67 Chestnut Street walked up to the podium and stated that they were in favor of the proposed project at 75 Chestnut Street and they also had no issues with them building a garage.

Cuscia made a motion to close the hearing.

Koch second the motion

All were in favor to close the hearing Manzi, Byers, Koch, Cuscia and Ludgin

Cuscia thought they did an excellent job with the new changes.

Manzi agreed and thought it looked nice, and also blends in with the neighborhood.

Koch stated he appreciates the applicant's response to the Board with the modifications and requests from the Board.

Cuscia made a motion to grant the 3 Variances from Table 2 of the Zoning Bylaws for 75 Chestnut Street to construct a single stall garage. Cuscia referenced all the drawings, pages, plans and maps in front of him along with associated dates along with the newly revised dates. Cuscia stated all the Setbacks needed, front setback A, 13.2, front setback B, 25 and rear setback, 15.1.

Koch second the motion

All in favor to grant the three Variances were Manzi, Byers, Koch, Cuscia and Ludgin

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Manzi moved to the New Public Hearings

New Public Hearing

Variance R-1 Owner, Ken Haphey and Applicant Stephen Dehullu, 0 Great Pond Road (Map 35, Lot

The Petitioner is requesting a Variance to construct a new single Family home in the non disturbance buffer zone of the Watershed Protection District in the R-1 Zoning District.

William Holt, Designer for the project walked up the podium stating that he is representing the applicant Stephen Dehullu.

Holt stated the Dehullu wanted to build a home and pointed on the plan where the proposed home would go. Holt stated that this lot is in between lots 57 and 38

Holt spoke of the shape of the lot and stated that it is relatively flat but does slope in back.

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Holt spoke of the proposed plan and also of the alternative plan and where the home would be placed on each of these plans. Holt presented to the board the two different locations on placing the house on the lot, and how the alternative plan would be outside of the non-disturb zone, but would cause more tree loss and ground disturbance than the other proposed plan.

Manzi asked if there was a home on the lot already; Holt responded no, he also asked Holt various questions regarding the lot and soil.

Manzi asked of the red dots on the plan and also the non-disturbance zone and sloping and topography of the land.

Manzi wanted to know where the wetlands were located and Holt stated across the street.

Holt stated that the land is L shaped. He also stated he is here tonight to ask for relief to build in the non-disturb zone.

Holt also stated that they will be going in front of the Conservation and Planning Boards.

Manzi asked if any abutters were here tonight that may like to speak regarding this hearing.

Holt spoke of the requests from Lisa Eggleston (referencing a letter) such as results of the soil testing, along with making an appropriate design for the area, the sloping of the driveway in regards to the infiltration trench and directing it away from wetlands.

Manzi commented on the report from Lisa Eggleston and was also concerned with seeing a soil test on the property. Manzi also wanted Final recommendations from Eggleston and felt we needed more information before the Board could go forward.

Manzi felt that the challenge of the Waiver was for the non disturbance zone.

Manzi thought that this hearing should be continued till the September ZBA

Byers stated that the Board struggles with this part of the Bylaw in regards to the Variances needed when it comes to the non-disturbance zone.

Manzi stated to Holt any additional documentation and information regarding this petition should be given to the Zoning Assistant.

Byers made a motion to continue the hearing for September 10th 2013.

Cuscia second the motion to continue the hearing.

All in favor to close this hearing: Manzi, Byers, Koch, Cuscia and Morganthal

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Manzi asked them to sign the continuation form.

Manzi stated that they will go a little out of order from the agenda and go to another new Public Hearing on 138 High Street.

Special Permit (1) R-4 Petitioner John E Ratka 138 High Street (Map53/Lot 20)

The Petitioner is requesting a **Special Permit**, to convert the existing 2 family dwelling unit into a 3 family dwelling, per 4.122.14.D and 10.31 of the Zoning Bylaw in the R-4 Zoning District. Smolak walked up the podium stating that he is representing the applicant John E Ratka and that these apartments will be offered to Veterans. He also stated Jack Sullivan, the engineer for this project is also here to explain the project and answer any questions.

Manzi stated that he is familiar with this project and has met with the applicant in regards to this project. Smolak went on to say that it is funded by Community Preservation and is based in Haverhill. Smolak stated that this is an outreach center that works with and tries to give veterans opportunities.

Smolak spoke of the previous meeting regarding this proposal to the Zoning Board.

Manzi stated at the Selectmen Meeting they voted to waive the filing Fees.

Smolak stated that this property is about 31,000 square feet and at the moment the structure is a 2-family unit. They propose on making it a 3-Family unit. Smolak stated how the house exists now and what is proposed. Smolak talked of the diversity of housing and also how this type of housing is desperately needed here in North Andover.

Smolak stated the design works with the area.

Byers and Ludgin commented on the garage that will remain on the property.

Manzi asked if this 2 family structure is vacant right now. Brown spoke up and said yes, and that it was in deplorable condition.

Smolak stated that they propose one unit will be a 3 bedroom unit, another unit will be a two bedroom unit and the third will be a 1 bedroom unit.

Sullivan walked to the podium and showed a map that identified all the homes in the area and color coded single family homes, 2 family homes and 3 family homes located around the surrounding neighborhood.

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Sullivan also showed a picture of the proposed 3 family house and stated that it is consistent with the neighborhood.

Byers asked if it will be sprinkled, Brown spoke up and stated yes it would be. They also spoke of the 6 parking spots and how they planned on keeping most of the mature trees.

Sullivan stated that from listening to the neighbors concerns they want to keep as much green space as possible on this property.

Manzi asked if they needed to go to any other Boards, Smolak responded no.

Manzi wanted the roof water runoff managed in the neighborhood. Sullivan stated that they are removing the impervious area and that there will be a very minimal amount of runoff.

Ludgin, question the garage on the property and if it will remain there. Ratka stated yes, and it will also be one of the parking spots provided.

Brown said Conservation has already looked at this property and stated that they do not need to go in front of Conservation.

Brown stated that this is a project that the town will be, and should be proud of.

Sullivan spoke of keeping the retaining wall.

Manzi thought that this was a good project with merit, but he stated he wants the neighbors to also be happy with this proposed project.

Manzi stated he is familiar with the area.

Manzi asked if any abutter were here for against the project.

Leonard Provost of 157 High Street walked up to the podium and stated that he is in favor of the project but questioned if they would be turned into condominiums. Ratka, Director of the Northeast Outreach Center responded no, that they will be rental units.

Provost stated that he was told by John Simon that this will have minimal impact on High Street.

Dan Drover of 126 High Street a direct abutter was concerned with the intent of the driveway, since it was a sensitive issue. Sullivan answered Drovers question and pointed to the designated spots on the

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plan. Sullivan stated a parking space will be 9 X 18. Sullivan pointed out that you will see 74 feet before you see parking spots.

Drover spoke of having a fence put in by the applicant on his property.

Robin Morgasen, of 147 High Street thought the project looked good but questioned if they were strictly for veterans who live in North Andover. Smolak responded that they want to maintain it for veterans in North Andover.

Manzi and Cuscia thought this was an excellent project.

Byers made a motion to close the hearing.

Cuscia second the motion to close the hearing.

All in favor to close this hearing: Manzi, Byers, Koch, Cuscia and Morganthal.

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Cuscia made a motion to grant the Special Permit to construct a third dwelling to the existing two family home in accordance with section 10.31 and 4.122.14D of the Zoning Bylaws in the R-4 Zoning area.

Cuscia referenced all the drawings, plans and maps in front of him along with associated dates

Byers second the motion

All in favor to grant the Special Permit were Manzi, Byers, Koch, Cuscia and Morganthal

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A five minute recess was taken at 9:05 and the Board returned at 9:10

Manzi recused himself from the 288 Sutton Street hearing (Lot 1, Lot 2, Lot 3, Lot 4 and Lot 5).

Rick Byers now was the Acting Chairperson for the remainder of the meeting.

Special Permit (5), R-4 Petitioner, Stephen Smolak 288 Sutton Street Lot 1, Lot 2, Lot 3, Lot 4 and Lot 5

Petitioner is requesting five separate Special Permits to construct a two family dwelling in accordance with Sections 4.122.14.A (b), 4.122.14.D and 10.31 of the Zoning Bylaws, for each of the five lots located at 288 Sutton Street, including Lot 1, Lot 2, Lot 3, Lot 4 and Lot 5, all of which are located within the R-4 Zoning District.

Smolak walked up the podium stating that he is representing the applicant, along with Jack Sullivan, engineer for the project.

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Smolak spoke of the history of the lots, and at one point the lot was 2.8 acres and now the lot was divided into 5 lots with the Planning Board Approval. The applicant is proposing to put new two family dwellings on each lot. They need 5 Special Permits. Smolak talked of the locations of each of the homes on each lot, stormwater, drainage, landscaping, retaining walls and garages.

Sullivan spoke of the area and identifies the single, and multi families in the neighborhood on a color coded map that he presented to the Board.

Smolak stated that they will be going in front of Conservation regarding this property

Smolak stated that all the lots meet the R-4 Zoning District, Table 2 requirements of the Zoning Bylaw (Dimensional Requirements), so no Variance is needed. Smolak stated that there will be minimal tree cutting.

Cuscia asked since it was so close to the airport will they need FAA Approval. Smolak stated yes they are looking for that approval, but they want to get through this process first.

Byers asked when they received Planning Board approval regarding the 5 lots. Smolak stated in 2011

Byers asked Sullivan to point out the paper street on the plan.

Byers asked the Board if they had any questions.

Byers asked Sullivan to point to the mentioned paper street on the plan.

Ludgin asked if they will be speaking to Conservation regarding water retention, grading and drainage. Sullivan stated they will when they get to that point. Sullivan commented that Lot 3 and also a small portion of the roadway would be subject to Conservation review. Sullivan stated that they will use an approved drainage plan.

Byers asked if these proposed 2 families will become condominiums on Mathews Way. Smolak stated yes that they will be condominiums.

Byers asked if any abutters were here for or against the project.

Sharon Lewis, of 272 Sutton Street pointed out on the map where her home was located. Lewis was concerned with the amount of the cars and traffic that would be added to the area. Lewis asked if a traffic study was done.

Smolak responded to Lewis that a traffic study was not needed.

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Lewis was concerned with preserving as many trees as possible that surrounded her property. She also felt the proposed home was too close to her property. Sullivan stated that it was 27 feet away from her property and Lewis was comfortable with that.

Lewis also had concerns when this proposal turned into a two family unit for each lot.

Smolak stated that it was mention at three of the Planning Board Meetings (according to the minutes) that it was the intent of the applicant to have a 2 family dwelling in each lot.

Lewis also had concerns with height too.

Byers asked if they were different designs. Smolak stated that they all have different variations

Koch commented that 2 families need Special Permits in the R-4 Zoning District.

Ludgin expressed his concerns with some of the plans submitted (regarding height) and felt the plans needed more clarity.

Ludgin also questioned the retaining wall and also the grading for the retaining walls to Sullivan along with various measurements that were presented on the submitted plans.

Ludgin also asked the length of the retaining wall on one of the lots. Sullivan responded it will be 1 foot wide by 24.

Smolak stated that they met with the neighbors a number of times to listen to them and tried to meet their needs regarding this project. He also spoke that this was too small a project to request a traffic study.

Smolak said they will comply with the height on each of the plans. They will comply with what is depicted in Lots 1 and 2, 30.17 feet, Lot 3, 32.92 feet, and Lot 4 & 5, 33.17 feet.

Brown stated that these plans submitted are all sketches of intent.

Byers stated that they are not asking for any height Variances.

Cuscia made a motion to close the hearing.

Koch second the motion to close the hearing.

All in favor to close this hearing: Byers, Koch, Cuscia, Morganthal and Ludgin

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Upon a motion by Cuscia to **GRANT the Special Permits to** allow from 4.122.14.A (b), 4.122.14.D and 10.31 of the Zoning Bylaws to construct, a new, two family dwelling in Lot 1, Lot 2, Lot 3, Lot 4 and Lot 5. Cuscia referenced all the drawings, plans, pages and maps in front of him along with all associated dates

Ludgin second the motion.

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Those in favor to Grant the Special Permits for Lots 1,2,3,4 and 5: Richard J. Byers, D. Paul Koch Jr, Allan Cuscia, Deney Morganthal and Douglas Ludgin.

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Miscellaneous Correspondence

A letter from CHAPA dated June 12, 2013 sent from Program Manager, Elizabeth Palma-Diaz, regarding owner's intent to sell their affordable unit was reviewed by the Board.

Adjournment: 10:15

Cuscia made a motion to adjourn the meeting

Morganthal second the motion

All were in favor to adjourn the meeting Richard J. Byers, D. Paul Koch Jr, Allan Cuscia, Deney Morganthal and Douglas Ludgin.

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